



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

MAR 14 2013

CERTIFIED MAIL NO.:
RETURN RECEIPT REQUESTED
In Reply Refer to:
Rancho San Pedro Terminal, San Pedro, CA

Mr. Tony Puckett
Rancho LPG Holdings, LLC
2110 North Gaffey Street
San Pedro, California 90731

RE: Notification of Potential Enforcement Action for Violation of Section 112(r)(7) of the
Clean Air Act

Dear Mr. Puckett:

On April 14, 2010, and January 11, 2011, the U.S. Environmental Protection Agency ("EPA") conducted inspections at the San Pedro Terminal ("the Facility") owned by Plains LPG Services and operated by Rancho LPG Holdings, LLC (the "Companies") at 2110 North Gaffey Street, in San Pedro, California. The purpose of the inspections and subsequent information requests were to evaluate the Companies' compliance with the requirements under Section 112(r) of the Clean Air Act ("CAA").

Based upon the information obtained during our investigation, EPA is prepared to initiate a civil administrative action against the Companies to ensure compliance with federal law and assess a penalty pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. The anticipated allegation includes violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and its implementing regulations.

Specifically, the anticipated allegations against the Companies include:

1. The Companies failed to identify and assess its rail storage area as a process for inclusion in its Risk Management Plan ("RMP"). The rail storage area should have been included as a covered process where a regulated substance was present above a threshold quantity when it submitted an RMP. As a result, the Companies failed to conduct a hazard assessment of that process, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.12(a) and (b).

2. The Companies failed to adequately evaluate potential seismic stresses on the support structure for the emergency flare in accordance with design codes. As a consequence, the Companies violated Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.65(a) and(d)(2-3), which requires that the owner or operator ensure that complete process safety information is compiled on the technology of the process and that the equipment complies with recognized and generally accepted good engineering practices.
3. The Companies did not appropriately address the consequences of a loss of the city water system for fire suppression in the event of an earthquake. This omission is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.67(c)(4), which requires that the owner or operator address the consequences of the failure of engineering and administrative controls in the process hazard analysis.
4. The Companies failed to internally inspect Tank 1 according to a timetable set forth in API Standard 653, in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.73(d)(2), which require that the owner or operator ensure that inspection and testing procedures follow recognized and generally accepted good engineering practices.
5. The Facility's emergency response plan identified the facility as a responding facility for which employees will take response action in the event of a release, per 40 C.F.R. 68.90(a). However, the Facility's emergency response plan developed under paragraph (a)(1) of that part was not coordinated with the community emergency response plan developed under 42 U.S.C. 11003. In addition, the Facility Manager and employees stated to EPA that they are not emergency responders for the Facility, but are only authorized to take life safety and evacuation actions. The Companies failed to develop and implement an emergency response program for the purpose of protecting public health and the environment, including at a minimum, procedures for informing the public and emergency response agencies in the event of a release. The Facility failed to clearly indicate to their own employees whether they would be emergency responders or would evacuate. This is in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.95(a)(1)(i), which requires an owner or operator to develop and implement an emergency response program including a plan that shall be maintained at the stationary source and contain procedures for informing the public and local emergency response agencies about accidental releases.
6. The Companies failed to ensure that the drain pipe located in the base of the containment basin and the valve located near Gaffey Street were included in the mechanical integrity program. This is in violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. § 68.73(d), which requires inspection and testing procedures to follow recognized and generally accepted good engineering practices.

Before filing a Determination of Violation, Compliance Order and Notice of Right to Request a Hearing ("Complaint"), EPA is extending to the Companies an opportunity to advise EPA of any other information that the Companies believes should be considered before the filing of such a Complaint. Relevant information may include any evidence of reliance on compliance assistance, additional compliance tasks performed subsequent to the inspection, or financial factors bearing on the ability to pay a civil penalty.

Your response to this letter must be made by a letter, signed by a person or persons duly authorized to represent the Companies. Please send any such response by certified mail, return receipt requested, addressed to:

Ms. Mary Wesling (SFD-9-3)
Environmental Scientist
U.S. EPA Region IX
75 Hawthorne St.
San Francisco, CA 94105

Please provide such information by no later than April 15, 2013. EPA anticipates filing a Complaint in this matter on or about May 15, 2013, unless the Companies first advise EPA, with supporting information, of substantial reasons not to proceed as planned. Any penalty proposed for violation of the CAA will be calculated pursuant to EPA's "Final Combined Enforcement Policy for the Clean Air Act Section 112(r)(1), the General Duty Clause, and Clean Air Act Section 112(r)(7) and 40 C.F.R. Part 68, Chemical Accident Prevention Provisions," dated June 20, 2012, a copy of which is enclosed (the "Penalty Policy"). Civil penalties may be mitigated, under the EPA "Supplemental Environmental Projects Policy,"¹ which describes the terms under which a commitment to perform an environmental project may mitigate, in part, a civil penalty. Even if the Companies are unaware of any mitigating or exculpatory factors, EPA is extending to the Companies the opportunity to commence settlement discussions concerning the above described violations.

Additionally, to fully consider application of the Penalty Policy, EPA is additionally requesting responses to specific questions set forth below. EPA makes this request for information pursuant to 42 U.S.C. § 7414(a). Failure to comply with the information request in this letter may result in enforcement action being taken in accordance with Section 113 of the Act, 42 U.S.C. § 7413. This may include civil and administrative penalties of up to \$37,500 per day of noncompliance, pursuant to section 113(b)(2) and 113(d) of the Act, 42 U.S.C. §§ 7413(b)(2) and 7413(d). Instructions regarding the requests also are set forth below.

///

¹<http://www.epa.gov/compliance/resources/policies/civil/seps/fnl-sup-hermn-mem.pdf>, and <http://cfpub.epa.gov/compliance/resources/policies/civil/seps/>.

If there are any questions, please contact Mary Wesling of my staff at (415) 972-3080 or Wesling.Mary@epa.gov. Please direct any questions or inquiries from legal counsel to Andrew Helmlinger, EPA Counsel, at (415) 972-3904 or Helmlinger.Andrew@epa.gov.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Meer', with a stylized flourish at the end.

Daniel A. Meer, Assistant Director
Superfund Division

Enclosures:

Final CAA §112(r) Combined Enforcement Policy

cc (w/enclosures):

T. Puckett, Plains LPG Services, LLC, Houston, TX

M. Wesling, U.S. EPA Region IX

A. Helmlinger, U.S. EPA Region IX

ENCLOSURE

INSTRUCTIONS

1. Please provide a separate response to each request, and identify each response by the number of the request to which it corresponds. For each document produced, identify the request to which it is responsive.
2. Knowledge or information that has not been memorialized in any document, but is nonetheless responsive to a request, must be provided in a narrative form.
3. The scope of this Information Request includes all information and documents obtained or independently developed by the Companies, their attorneys, consultants or any of their agents, consultants, or employees.
4. The Companies may not withhold any information from EPA on the grounds that it is confidential business information. EPA has promulgated regulations, under 40 C.F.R. Part 2, Subpart B, to protect confidential business information that it receives. The Companies may assert a business confidentiality claim (in the manner specified in 40 C.F.R. § 2.203(b)) for all or part of the information requested by EPA. However, business information is entitled to confidential treatment only if it satisfies the criteria set forth in 40 C.F.R. § 2.208. EPA will disclose business information entitled to confidential treatment only as authorized by 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice.
5. Notice is hereby given, pursuant to 40 C.F.R. § 2.310(h), that EPA may disclose confidential information provided by the Companies to EPA's authorized representatives, including its contractor, Science Applications International Corporation ("SAIC"). Confidential information may be disclosed to EPA's authorized representatives for the following reasons: to assist with document handling, inventory and indexing; to assist with document review and analysis for verification of completeness; and to provide expert technical review of the contents of the response. Pursuant to 40 C.F.R. § 2.310(h), the Companies may submit, along with its response to this Information Request, any comments regarding EPA's disclosure of confidential information to its authorized representatives.
6. If information or documents not known or available to the Companies at the time of any response to this Information Request later become known or available to it, it must supplement its response to EPA. Moreover, should the Companies find at any time after the submission of any response that any portion of the submitted information is false or misrepresents the truth, the Companies must notify EPA as soon as possible and provide EPA with a corrected response.
7. If information responsive to a request is not in the Companies' possession, custody, or control, identify the persons or entities from whom such information may be obtained. For each individual or entity that possesses responsive information, please provide the following: name, last known or current address, telephone number, and affiliation with the Companies or the Facility.

8. If you believe that there are grounds for withholding information or documents that are responsive to this request, e.g., attorney-client privilege, you must identify the information or documents and state the basis for withholding.

INFORMATION REQUEST

1. Provide cost information for the development and implementation of the Facility's RMP. Disaggregate the RMP development costs by capital and one-time non-depreciable expenses. Regarding implementation costs, provide actual or estimated incremental (above the Facility's previously existing level-of-effort) annually recurring costs (e.g. Operation & Maintenance).
2. Provide a statement and supporting documentation indicating the Companies' present net worth.